

Senate Bill No. 1130

Passed the Senate August 23, 2006

Secretary of the Senate

Passed the Assembly August 22, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1266.9 of the Health and Safety Code, and to amend Sections 10544, 11363, 11367, and 15200 of the Welfare and Institutions Code, relating to human services, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1130, Committee on Budget and Fiscal Review. Human services.

(1) Existing law establishes within the Special Deposit Fund the State Department of Health Services Licensing and Certification Program Account, and specifies that revenues collected for the licensing of specified health care providers shall be deposited in the account, for allocation, upon appropriation by the Legislature, to support the department's licensing and certification program.

This bill would redesignate this account as a separate fund in the State Treasury, to be known as the State Department of Health Services Licensing and Certification Program Fund, and would make related technical changes.

(2) Existing law provides that if the State Department of Social Services finds that a county is experiencing significantly worsened CalWORKs outcome plans, it shall report this finding to the Chairs of the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Health and Human Services, and the Assembly Committee on Human Services.

Existing law also provides that if a county fails, without good cause, to submit accurate and timely data used to measure work participation, as required by the department, it shall be deemed to have failed to meet applicable federal requirements, and to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation.

This bill would eliminate the requirement that the extent to which there are differences between state and federal

requirements shall be used in determining the degree of success in meeting state participation requirements.

This bill would also state the change made by Chapter 75 of the Statutes of 2006 to these provisions is declarative of existing law.

(3) Existing law, through the Kinship Guardianship Assistance Payment Program, which is a part of the CalWORKs program, provides aid on behalf of eligible children who are placed in the home of a relative caretaker, and limits the application of the program to children who have been adjudged a dependent child of the juvenile court and whose dependency has been dismissed on or after January 1, 2000, concurrently or subsequent to the establishment of the kinship guardianship. The program is funded by state and county funding and available federal funds.

This bill would revise the methodology for calculating the state share of funding of benefits and administration under the Kin-GAP Program.

(4) This bill would authorize specified statutory changes made by the bill to be implemented by the State Department of Social Services by all-county letters or similar instructions, pending the adoption of emergency regulations, as prescribed.

(5) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1266.9 of the Health and Safety Code is amended to read:

1266.9. There is hereby created in the State Treasury the State Department of Health Services Licensing and Certification Program Fund. The revenue collected in accordance with Section 1266 shall be deposited in the State Department of Health Services Licensing and Certification Program Fund and shall be available for expenditure, upon appropriation by the Legislature, to support the Licensing and Certification Program's operation. Interest earned on the funds in the State Department of Health Services Licensing and Certification Program Fund shall be deposited as revenue into the fund to support the Licensing and Certification Program's operation.

SEC. 2. Section 10544 of the Welfare and Institutions Code is amended to read:

10544. (a) If the department finds that a county is experiencing significantly worsened outcomes, it shall report this finding to the Chairs of the Senate Committee on Budget and Fiscal Review, the Assembly Committee on Budget, the Senate Committee on Health and Human Services, and the Assembly Committee on Human Services.

(b) If the state does not achieve the outcomes required by federal law and, as a result, is subject to a fiscal penalty, the penalty shall be shared equally by the state and the counties after exhaustion of all reasonable and available federal administrative remedies. If a county's single allocation pursuant to Section 15204.2 is reduced by the state to offset the county's share of any federal penalty imposed pursuant to this section, the county shall be required to utilize county general funds to replace the offset amount, so that total funding remains equal to the county's single allocation. These funds shall be in addition to the funds required to meet the maintenance-of-effort requirement pursuant to Section 15204.4. Only those counties that have failed to meet the federal requirements shall be required to share in the fiscal penalty imposed on the state. Those counties' share of the penalty imposed on the state shall equal 50 percent of that penalty. Each county's share of the penalty shall be based, in consultation with the County Welfare Directors Association, on the county's degree of performance that contributes to the failure to meet the federal requirement.

(c) A county may be provided relief, in whole or in part, from a penalty imposed pursuant to subdivision (b) if the department determines that there were circumstances beyond the control of the county. A county may also be provided relief based on the degree of success or progress in meeting federal requirements, and, to the extent that there are differences between state and federal program requirements, the degree of success in meeting state participation requirements. Any adjustment made pursuant to this subdivision shall be reported to the Chair of the Joint Legislative Budget Committee. If a county is granted relief, that portion of the total penalty shall not be imposed on the other counties that failed to meet the federal requirements.

(d) A county that fails, without good cause, to submit accurate and timely data used to measure work participation, as required by the department, shall be deemed to have failed to meet applicable federal requirements. For purposes of this subdivision, good cause shall include, but shall not be limited to, the lack of accurate, timely, and complete instructions from the department.

(e) The amendments made to subdivision (b) by the amendment of this section in 2006 by Chapter 75 of the Statutes of 2006, clarify existing law, as enacted by Assembly Bill 1542 (Ch. 270, Stats. 1997).

SEC. 3. Section 11363 of the Welfare and Institutions Code, as added by Chapter 75 of the Statutes of 2006, is amended to read:

11363. (a) Aid in the form of Kin-GAP shall be provided under this article on behalf of any child under 18 years of age who meets all of the following conditions:

(1) Has been adjudged a dependent child of the juvenile court pursuant to Section 300, or ward of the juvenile court pursuant to Section 601 or 602.

(2) Has been living with a relative for at least 12 consecutive months.

(3) Has had a kinship guardianship with that relative established as the result of the implementation of a permanent plan pursuant to Section 366.26.

(4) Has had his or her dependency dismissed after January 1, 2000, pursuant to Section 366.3, or his or her wardship terminated pursuant to subdivision (e) of Section 728, concurrently or subsequently to the establishment of the kinship guardianship.

(b) Kin-GAP payments shall continue after the child's 18th birthday if the conditions specified in Section 11403 are met.

(c) Termination of the guardianship with a kinship guardian shall terminate eligibility for Kin-GAP; provided, however, that if an alternate guardian or coguardian is appointed pursuant to Section 366.3 who is also a kinship guardian, the alternate or coguardian shall be entitled to receive Kin-GAP on behalf of the child pursuant to this article. A new period of 12 months of placement with the alternate guardian or coguardian shall not be required if that alternate guardian or coguardian has been

assessed pursuant to Section 361.3 and the court terminates dependency jurisdiction.

(d) This section shall become operative on October 1, 2006, but only if the department suspends the voluntary enrollment of Kin-GAP beneficiaries into the Kin-GAP Plus Program pursuant to subdivision (b) of Section 11380.1.

SEC. 4. Section 11367 of the Welfare and Institutions Code is amended to read:

11367. Kin-GAP, in an amount equal to the applicable regional per-child CalWORKs grant, shall be paid by the state. The balance of Kin-GAP shall be paid in equal portions by the state and the counties. Notwithstanding Section 11216, effective July 1, 2006, the state share of benefits and administration of the Kin-GAP Program shall be funded with General Fund resources.

SEC. 5. Section 15200 of the Welfare and Institutions Code is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 95 percent of the sums specified in subdivision (a), and paragraphs (1) and (2) of subdivision (e), of Section 11450.

(b) To each county for the support and maintenance of pregnant mothers, 95 percent of the sum specified in subdivisions (b) and (c) of Section 11450.

(c) For the adequate care of each child pursuant to subdivision (d) of Section 11450, as follows:

(1) For any county that meets the performance standards or outcome measures in Section 11215, an amount equal to 40 percent of the sum necessary for the adequate care of each child.

(2) For any county that does not meet the performance standards or outcome measures in Section 11215, an amount which shall not be less than 67.5 percent of one hundred twenty dollars (\$120), and multiplied by the number of children receiving foster care in the county, added to an additional twelve dollars and fifty cents (\$12.50) a month per eligible child.

(3) The department shall determine the percentage of state reimbursement for those counties that fail to meet the requirements of subparagraph (1) according to the regulations required by subdivision (b) of Section 11215.

(d) Notwithstanding subdivision (c), the amount of funds appropriated from the General Fund in the annual Budget Act that equates to the amount claimed under the Emergency Assistance Program that has been included in the state's Temporary Assistance for Needy Families block grant for foster care maintenance payments shall be considered federal funds for the purposes of calculating the county share of cost, provided the expenditure of these funds contributes to the state meeting its federal maintenance of effort requirements.

(e) To each county for the support and care of hard-to-place adoptive children, 75 percent of the nonfederal share of the amount specified in Section 16121.

(f) To each county for the support and care of former dependent children who have been made wards of related guardians, an amount equal to 50 percent of the Kin-GAP payment under Article 4.5 (commencing with Section 11360) of Chapter 2 minus the federal TANF block grant contribution specified in Section 11364. This subdivision shall become inoperative on July 1, 2006.

(g) The State Department of Social Services shall not implement any change in the current funding ratios to counties as a reimbursement for out-of-home care placement until the development of a new performance standard system. The State Department of Social Services shall notify the Department of Finance when the new performance standard system is developed and ready for implementation. The Department of Finance, pursuant to the provisions of Section 28 of the Budget Act, shall notify the Joint Legislative Budget Committee in writing of its intent to implement a new performance standard that would impact the counties' funding allocation. The notification shall include the text of the draft regulations to implement the performance standards. Any adjustment in the county funding allocation shall not be implemented sooner than 60 days after receipt and review of the new performance standard by the Joint Legislative Budget Committee and a review of the proposed changes by the Legislative Analyst.

(h) Federal funds received under Title XX of the federal Social Security Act (42 U.S.C. Sec. 1397 et seq.) and appropriated by the Legislature for the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program shall be considered

part of the state share of cost and not part of the federal expenditures for purposes of subdivision (c).

SEC. 6. (a) Notwithstanding the rulemaking provisions of the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Sections 10544 and 11367 of the Welfare and Institutions Code by this act through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those amendments no later than July 1, 2008.

(b) The adoption of regulations pursuant to subdivision (a) shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2006 at the earliest possible time, it is necessary that this act take effect immediately.

Approved _____, 2006

Governor